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REPORT OF SPECIAL COMMITTEE

ON

CRIMINAL ABO<sup>R</sup>TIONS.

APPROVED BY THE

East River Medical Association,

AT ITS

REGULAR MEETING

HELD TUESDAY, DECEMBER 5, 1871.

INCLUDING THE FORM OF A BILL TO SUPPRESS CRIMINAL ABO<sup>R</sup>TIONS  
AND TO REGULATE THE PRACTICE OF MEDICINE AND  
SURGERY IN THE STATE OF NEW-YORK.

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## REPORT.

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THE Committee appointed to investigate the subject of criminal abortion would respectfully submit the following Report:

The subject of criminal foeticide presents points of special interest and concern to the medical profession which deserve our serious attention.

We find this crime prevalent to an alarming extent, particularly in this city, to which, as to a place of refuge, flee, from all sections of the country, those who seek to hide or get rid of their shame. It is not confined to any particular class. It selects its victims from the rich and the poor, the educated and the ignorant, the married as well as the single.

The recent developments of the horrid practices of professional abortionists has dispelled the hitherto prevailing apathy of the people and authorities, and has aroused a justly indignant public to demand the adoption of measures for the suppression of the unrestrained practice of medicine. Much credit is due to the public press for the severity with which it has denounced this evil; and too much can not be said in praise of the judiciary for the noble sentiments it has uttered on this subject, as also for its prompt and vigorous action toward criminals of this class, as was made evident by the results of the recent trials. Your committee deem the unrestrained practice of medicine as the main cause for the existence of professional abortionists, and the want of proper laws to regulate the practice of medicine as encouraging knaves to assume and practice under titles which institutions duly chartered by the State alone have the right to confer. Our laws know no distinction between the duly authorized physician and the impostor. They grant no privileges to the one which are not equally enjoyed by the other. Quackery and fraud being thus placed on an equality with the in-

telligent and honorable practice of medicine, what inducement or encouragement is there for young men to select the study of medicine as one of the honorable professions. The charters of our colleges under existing laws are a farce, and the titles conferred by them a solemn mockery, and the taking of fees by them for the same a fraud.

We call upon our chartered colleges, and upon the entire medical faculty of this State, not to allow the present opportunity to pass by without making one united and earnest effort to induce our next legislature to pass laws which, while they would tend to protect the morals and the health of the community, would at the same time afford that protection and encouragement to a profession honored and fostered by every civilized government except this.

Next, in the course of our investigation, our attention was directed to the nameless and numerous nostrums so extensively advertised and sold as powerful remedies for the removal of all female obstructions. It is surprising to what an extent the traffic in this species of quack remedies is carried on. Through the kindness of the Commissioner of Internal Revenue, the Hon. J. W. Douglass, your committee were furnished with the official statement which accompanies this report. From it, it will be seen that the manufacture, by a single proprietor, of one of these nostrums, during the last twelve months, required 30,841 stamps of the value of \$1233.64. The manufacture, sale, and advertisement of these baneful drugs is, in our opinion, fraught with evils scarcely inferior to those resulting from the criminal practices of professional abortionists. It is from reading their extensive advertisements, in language too plain to be misunderstood, that the innocent often receive their first impulse to abandon the path of virtue; and the facility with which they may generally be procured has induced thousands to employ them upon the most frivolous pretexts, but really with the intent to commit the crime of foeticide.

The government and people that tolerate so atrocious a practice, the effects of which are calculated to undermine the very foundation of our political, moral, and social institutions, is wanting in its first and highest duty—*self-preservation*. For the life, power, and stability of a nation depend on the preservation of its offspring. Much as the medical profession has been reviled, we do

not believe that any member, in good standing, can be justly charged with being engaged in or with countenancing this abominable practice. It can not be denied, however, that this practice has been more or less promoted by the too ready consent of the physician, when appealed to for his services by patients suffering from injuries received at the hands of abortionists; thus often becoming the pliant tool of the charlatan, finishing the detestable work he had begun, and, with a view of protecting his patient from scandal, failing to bring the criminal to condign punishment. Such practice is, in the opinion of your committee, highly reprehensible and unprofessional, and is not sustained by any authority on medical jurisprudence. Let laws be never so stringent and penalties be never so severe, crime will diminish only in proportion as the probability of its discovery and punishment is made more certain.

It is a question whether a physician guilty of this practice lays himself open to the charge of being *particeps criminis post factum*. The law which does not allow a duly authorized physician and surgeon to disclose any information which he may have acquired in attending any patient in a professional character, and which information was necessary to enable him to prescribe for such patient as a physician, or to do any act for him as a surgeon, it has been held, forbids the revealing of secrets with intent to defame or injure, but could have no reference to information concerning injuries criminally received. Whether the views expressed here are correct or not, certain it is, that when the fact becomes patent that physicians will not *knowingly* give their professional services to patients of this character, to shield either patients or abortionists, it would deal an almost fatal blow to this growing evil.

In conclusion, your committee would ask your consideration and approval of the annexed draft of a bill for legislative action.

MORRIS J. FRANKLIN, A.M., M.D., }  
 H. RAPHEAL, M.D., } Committee.  
 W. A. JAMES, M.D., }

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## AN ACT

TO SUPPRESS CRIMINAL ABORTIONS, AND TO REGULATE THE PRACTICE OF MEDICINE AND SURGERY IN THE STATE OF NEW-YORK.

*Whereas*, The practice of medicine and surgery by incompetent and unauthorized persons is attended with danger to the lives, the health, and the morals of the community; *therefore*,

SECTION 1. Be it enacted by the people of the State of New-York, represented in Senate and Assembly,

That every person who shall administer to any woman pregnant with child, or procure any such woman to take any medicine, etc., or employ any instrument or other means, with intent thereby to destroy such child, unless the same shall have been advised by two physicians as necessary to preserve the life of such woman, shall, in case the death of such child or of such mother be thereby produced, be deemed guilty of a felony, and be punished by imprisonment in State prison for a term not less than four years.

SEC. 2. Every person who shall administer to any pregnant woman, or prescribe for any such woman, or advise or procure any such woman to take any medicine, drug, substance, or thing whatever, or manufacture, advertise, or sell any such medicine, drug, substance, or thing whatever, or shall use or employ any instrument or other means whatever, with intent thereby to procure the miscarriage of any such woman, shall, upon conviction, be punished by imprisonment in a county jail not less than one nor more than three years.

SEC. 3. Every person who shall carry on the business of physician or surgeon, who shall not have been declared competent and been duly authorized to carry on such business by the faculty of a legally chartered medical college, shall, upon conviction, be punished by imprisonment in a county jail not less than three months nor more than one year, or by a fine not exceeding three hundred dollars, or by both such fine and imprisonment.

SEC. 4. Every person who shall carry on the business of physician or surgeon under an assumed name, or by virtue of a ficti-

tious diploma, or a diploma fraudulently obtained, shall, upon conviction thereof, be punished by imprisonment in State prison not less than one nor more than five years, or by a fine not exceeding one thousand dollars, or by both such fine and imprisonment.

SEC. 5. Every person who shall carry on the business of physician or surgeon shall, within thirty days from the passage of this act, cause his name, place of business, and medical diploma to be registered in the county clerk's office of the county having respective jurisdiction, in a book set apart for that purpose, and which shall be known as the Medical Register of such county; and every person who shall practice medicine or surgery without having previously so registered, shall be punished by a fine of twenty-five dollars for the first, and fifty dollars for every subsequent offense.

SEC. 6. All laws conflicting with this act are hereby repealed.

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